

ROUTE SLIP

to Legislative Liaison Officers	Take necessary action <input type="checkbox"/>
	Approval or signature <input type="checkbox"/>
	Comment <input type="checkbox"/>
cc: Dr. Marik	Prepare reply <input type="checkbox"/>
Mr. Ebner	Discuss with me <input type="checkbox"/>
Mr. Skidmore	For your information <input type="checkbox"/>
	See remarks below <input type="checkbox"/>
<i>Wally</i>	
FROM Walter W. Haase	DATE 6/21/74

REMARKS

Subj: Draft Alternative Language to H.R. 12206

Bill Skidmore's Legislative Referral Memorandum dated June 19, 1974, forwarded a copy of the subject alternative language and indicated it was to be transmitted to Congressman Moorhead's Subcommittee of the House Government Operations Committee.

Attached for your information is a copy of the transmittal letter and the language transmitted. It was subsequently decided to also transmit a copy of this material to Senator Ervin. A copy of that transmittal is also attached.

OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUN 19 1974

Honorable William S. Moorhead
Chairman, Foreign Operations and
Government Information Subcommittee
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

In his letter to you on February 26, 1974, the Director expressed concern about some of the provisions of H.R. 12206, a bill to provide that persons be apprised of records concerning them which are maintained by Federal agencies.

Since the date of that letter we have been working with the Executive Director of the Domestic Council Committee on the Right of Privacy and with executive branch agencies to develop alternative language to accomplish the objectives of H.R. 12206. To date it has produced the enclosed alternative language which we believe overcomes most of the objections previously raised by various agencies.

Although the enclosed draft has been formulated in conjunction with the various agencies there are some differing views with respect to exemptions for certain categories of records of the Civil Service Commission, the Department of Justice, the Department of the Treasury and the National Science Foundation which the exigencies of the situation have caused to remain unresolved. We urge that the Subcommittee obtain additional input from these agencies prior to concluding its deliberations on this legislation.

Since your Subcommittee evidently desires to move ahead rapidly we thought it would be useful to provide you the results of our efforts to date even though the draft is not at this point a finished product. We,

2

of course, will stand ready to provide whatever additional assistance we can in developing meaningful and workable controls on Federal personal record keeping activities to promote the rights of privacy of individuals.

Sincerely,

(signed) Wilfred M. Rommel

Assistant Director for
Legislative Reference

Enclosure

cc: Secretary of the Treasury
Attorney General of the U.S.
Director, National Science Foundation
Chairman, Civil Service Commission
Official file DO Records
Director
Director's Chron
Deputy Director
Dr. Marik
Mr. Scott
Mr. Eberle
Mr. Ehaer
Mr. Rommel
✓ Mr. Haase
Mr. Loweth
Mr. Gray
Mr. Zarb

ISD:WHAase:pl1 6/18/74

Revised:Schner:RFBell:pl1 6/18/74

Revised:WHAase:pl1 6/19/74 (This revision per Domestic Council Cttee comments)

JUN 19 1974

Honorable Sam J. Ervin, Jr.
Chairman, Committee on
Government Operations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Your letter of May 6, 1974 requested OMB views on S. 3418 a bill to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State, and local governments, and other organizations regarding such information, and for other purposes.

Since the executive branch agencies concerned have not yet provided their comments to us, we are not yet prepared to address all aspects of that bill. However, we recognize the Committee's desire to proceed with its deliberations on legislation in this area and believe that it would be helpful to share with you the results of our efforts to date in developing legislative language on Federal record keeping practices. That language was developed to assist the Subcommittee on Foreign Operations and Government Information of the House Committee on Government Operations in its efforts to develop legislation which is intended to address most of the concerns addressed by S. 3413. The alternative language and our letter to Congressman Moorhead are enclosed.

We trust that our efforts will be useful to you and are ready to provide whatever additional support that we can to serve our common objectives.

Sincerely,

(signed) Wilfred M. Rommel
Assistant Director for
Legislative Reference

Enclosure

See page 2 for distribution

cc: Secretary of the Treasury
Attorney General of the U.S.
Director, National Science Foundation
Chairman, Civil Service Commission
Official file - DO Records
Director
Director's Chron
Deputy Director
Dr. Marik
Mr. Scott.
Mr. Eberle
Mr. Ebner
Mr. Rommel
Mr. Loweth
Mr. Bray
Mr. Zarb
Mr. Haase

ISD:FSReeder:krg 6/19/74

June 19, 1974

A BILL

To amend title 5, United States Code, to provide that individuals be apprised of records concerning them which are maintained by government agencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 5, United States Code, is amended by adding at the end of section 552 thereof the following new section:

"552a Records about individuals

"(a) For the purpose of this section--

"(1) 'Record' means a collection or grouping of data preserved for future reference or use;

"(2) 'System of records' means any organized set of records maintained by an agency whether or not stored in the computer; and

"(3) 'Statistical reporting or research record' means a record in a system of records assembled or maintained for analytic purposes only and not used in whole or in part in making any determination about an individual except as provided in section 8 of title 13.

"(b) Each agency that maintains a system of records pertaining to identifiable individuals which are indexed, or from which information could be retrieved, by the name of the individual or by some identifying number or symbol assigned to each

individual, shall with respect to such systems of records--

"(1) publish, at least annually in the Federal Register, a notice or notices of the existence and character of all such systems of records. The notices shall include but need not be limited to:

"(A) the name of the system;

"(B) the nature and purposes of the system;

"(C) the categories and approximate number of individuals on whom records are maintained;

"(D) the categories of information maintained;

"(E) the policies and practices of the agency regarding storage, retention, and disposal of the records;

"(F) a description of the purposes for which all or any part of the information pertaining to identifiable individuals contained in the records is used or is intended to be used including the categories of users for each purpose;

"(G) the title and address of the officer responsible for the system; and

"(H) the procedures whereby an individual can be informed if the system contains a record pertaining to him, gain access to such record, and contest its content;

"(2) maintain procedures whereby an individual from whom information about himself is being requested is apprised of the purposes for which that information will be used and the effects on him, if any, of not providing all or any part of the requested information;

"(3) refrain from disclosing any such records, or information contained therein, to a person not employed by the agency or to another agency, except--

"(A) pursuant to a request by or with the consent of the individual to whom the information in the record pertains, or

"(B) when expressly required by law, or

"(C) for a use that is clearly within the stated purposes of the system as described in a notice pursuant to paragraph (1) of this subsection published at least ninety days prior to such use, or

"(D) to another agency for a law enforcement purpose authorized by law, provided that the head of such other agency, or his designee, shall have made a written request specifying the particular information desired and the law enforcement purpose for which the information is sought, or

"(E) where the agency determines that the recipient has provided adequate assurance that the record, or information contained therein, will be used solely as a statistical reporting or research record, or

"(F) with a documented showing of unusual and compelling circumstances for the disclosure, provided that such disclosure is not otherwise prohibited by law, and only after notification of the individual to whom the record pertains at his last known address

prior to such disclosure;

"(4) maintain an accurate accounting of the date, nature and purpose of each disclosure of information which is contained in any such record made to any person outside the agency, or to another agency, including the name and address of the person or agency, to whom disclosure was made, and retain such accounting for a minimum of two years after such disclosure, except that no such accounting need be maintained for any disclosure of information from records which by law or regulation are open to public inspection or copying;

"(5) refrain from disclosing any such record, or information contained therein, within the agency other than to officers or employees who have a need to know in the performance of their duties for the agency, except in the case of records which by law or regulation are open to public inspection;

"(6) ensure that information about an identifiable individual which is used in making a determination about that individual is as accurate, timely and complete as is reasonably necessary to assure fairness in that determination;

"(7) permit an individual to gain access to the information pertaining to him and to have a copy made of all or any portion thereof;

"(8) permit an individual to request amendment of a record pertaining to him and either--

"(A) make any correction of information which the individual believes is not accurate, timely, or complete; or

"(B) inform the individual of its refusal to amend a record in accordance with his request, the reason for such refusal, the procedures established by the agency for the individual to request a review of that refusal and the name and address of the higher authority within the agency to whom the request for review may be taken;

"(9) permit an individual who disagrees with the agency's refusal to amend his record to request review by a higher authority within the agency and, if after such a review, that higher authority also refuses to amend his record in accordance with his request, permit the individual to file a statement setting forth the nature of his disagreement;

"(10) in any disclosure subsequent to the filing of a statement under (9) above, clearly note any information which is disputed and provide copies of the individual's statement and, if the agency deems it appropriate, copies of documents pertaining to the agency's review to persons or other agencies to whom the disputed information has been disclosed upon their request;

"(11) inform any person or other agency about any significant correction made by the agency of any information that has been disclosed to such person or agency within one year preceding the making of such correction.

"(c) The provisions of the section shall not apply to any system of records--

"(1) maintained by an executive agency to the extent that the head of that executive agency determines that the disclosure of the existence of the system of records could reasonably be expected to cause serious damage to national defense or foreign relations; or

"(2) maintained by the Central Intelligence Agency.

"(d) The head of an executive agency or his designee may, following a written determination setting forth his reasons and public notice of that determination, exempt systems of records or information contained therein from all or part of the provisions of subsections (b) (1) (H) and (b) (2) through (11) of this section--

"(1) to the extent that he determines that the disclosure of the information could reasonably be expected to cause serious damage to national defense or foreign relations; or

"(2) that are maintained in connection with providing protective services to the President and other individuals, or

"(3) that consist of investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency; or

"(4) that are investigatory files compiled or used for the purpose of determining initial or continuing eligibility or qualification for Federal employment, military service, Federal contracts, or access to classified information; or

"(5) to the extent that he determines that disclosure of testing or examination information used for appointment, employment or promotion in the Federal service could adversely affect the objectivity of the appointment, employment or promotion process; or

"(6) that are authorized by law to be maintained and used only as statistical reporting or research records.

"(e) Each agency shall adopt rules in accordance with section 553 of this title to implement the provisions of this section. Such rules shall define reasonable times, places and requirements for individual identification for making records available to the individual to whom they pertain; procedures for reviewing and making determinations on requests for amendment of records; and other procedures whereby individuals may exercise their rights established by this section. Such rules may establish fees to be charged to individuals for furnishing copies of records, or portions thereof, which shall in no event be greater than the cost to the agency of furnishing such copies. Such rules may also establish procedures for the disclosure to an individual of medical information pertaining to him in cases where the agency determines that such disclosure might be injurious to him.

"(f) (1) Records pertaining to identifiable individuals which are transferred to the General Services Administration for storage subsequent to the enactment of this section shall, for the purposes of this section, be considered to be maintained

by the agency which transferred the records and shall be subject to the provisions of this section. The General Services Administration shall not disclose such records, or any information therein, except to the agency which maintains the records or pursuant to rules established by the transferring agency.

(2) Records pertaining to identifiable individuals which have been transferred to the General Services Administration for storage prior to enactment of this section shall not be subject to the provisions of this section until requests are received for release or disclosure of the records or information contained therein. At the time of such request, the records shall be subject to the provisions of this section as if they were maintained by the agency at the time of the request for disclosure except that this provision shall not apply to records placed in storage more than 100 years prior to enactment of this section.

"(g) The President shall report to Congress before June 30th of each year on an agency-by agency basis the nature of each system of records and the number of records therein which were exempted from the application of this section pursuant to the provisions of subsections (c) or (d) during the preceding calendar year.

"(h) Any officer or employee of the United States who by virtue of his employment or official position, has possession of or access to information the disclosure of which is prohibited by this section, or rules or regulations established pursuant thereto, and who knowingly discloses such information in any manner to any person or agency not entitled to receive it shall

be subject to a fine of not more than \$5,000.

"(i) Nothing in this section shall be construed to require transfer or similar distribution of any information prohibited or otherwise restricted by other statutes."

SEC. 2 The table of contents of chapter 5 of title 5 United States Code, is amended by inserting:

"552a. Records about individuals."

immediately below:

"552 Public information; agency rules; opinions, order, records, and proceedings."

SEC. 3. The amendments made by the Act shall become effective on the one hundred eightieth day following the date of enactment of this Act.